

# INVITATION FOR BIDS

## American Recovery and Reinvestment Act Prevailing Wage Support



IFB #200-10-203  
[www.energy.state.ca.gov/contracts](http://www.energy.state.ca.gov/contracts)  
State of California  
California Energy Commission  
February, 2011

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# **I. Introduction**

## **BACKGROUND**

The American Recovery and Reinvestment Act of 2009 (ARRA) provides that Davis-Bacon Act prevailing wage requirements broadly apply to construction projects funded with ARRA appropriations.<sup>1</sup> As the State Administrator of ARRA funds awarded by the United States Department of Energy (DOE), the Energy Commission must comply with Davis-Bacon Act (DBA) and other federal prevailing wage requirements when awarding ARRA funds to its grantees, borrowers, and contractors (collectively referred to below as “recipients”), and has a duty to ensure that the recipients of its ARRA funded programs are in compliance with all applicable DBA and other federal prevailing wage requirements (collectively referred to below as “federal prevailing wage requirements”).

Moreover, as neither ARRA nor DBA expressly preempt state prevailing wage requirements, recipients of the Energy Commission’s ARRA funded programs are also subject to California prevailing wage requirements.<sup>2</sup> Thus, California prevailing wage rates, when higher, must be applied to all projects completed under the Energy Commission’s ARRA funded programs.

Therefore, all recipients of ARRA funding under the Commission’s Energy Efficiency and Conservation Block Grant (EECBG) Program for small cities and counties, EECBG Program Discretionary Contracts, and the Commission’s State Energy Program (SEP), including the ARRA funded Energy Conservation Assistance Act (ECAA) Loan Program, are required to comply with all applicable California and federal prevailing wage requirements.

## **PURPOSE OF IFB**

The purpose of this solicitation is to select a contractor to provide support services to assist the Energy Commission’s Federal Economic Recovery Program with ensuring that the Energy Commission and the recipients of its ARRA funded programs comply with applicable California and federal prevailing wage requirements.

More specifically, a contractor is required to assist the Energy Commission with four functions: 1) to provide prevailing wage technical assistance to Energy Commission staff and ARRA funding recipients; 2) to conduct the Commission’s initial prevailing wage review to ensure that correct prevailing wage rates are included in all lower-tier subcontracts for labor or mechanic work to complete the objectives of the Commission’s grant, loan, and contract agreements; 3) to review weekly certified payroll reports submitted by all lower-tier subcontractors performing labor or mechanic work under the Commission’s ARRA funded grant, loan, and contract agreements; and 4) to conduct initial investigation and provide findings and recommendations to the Commission where there is suspected noncompliance with federal prevailing wage requirements.

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<sup>1</sup> Sec. 1606, Division A, Pub. L. No. 111-5, 123 Stat. 303.

<sup>2</sup> In California, courts have held that because legislation providing for the payment of prevailing wages comes under the historic police powers of the state, absent a contrary intention expressed in a federal statute, the presumption is that such legislation is not superseded. *Reyes v. Van Elk, Ltd.* (Cal.App. 2 Dist. 2007) 148 Cal.App.4th 604, 616. Therefore, absent such an express statement preempting state prevailing wage requirements, whenever federally funded or assisted projects are controlled or carried out by California awarding bodies of any sort, California prevailing wage rates, when higher, must be applied. 8 C.C.R. § 16001(b). Although ARRA provides that federal prevailing wage requirements under the Davis-Bacon Act broadly apply to construction projects funded with ARRA appropriations, neither ARRA nor DBA expressly preempt state prevailing wage requirements.

## **I. INTRODUCTION, CONTINUED**

### **KEY ACTIVITIES AND DATES**

Key activities and times for IFB are presented below. This is a tentative schedule; please call the Contracts Office at (916) 654-4392 to confirm dates.

<b>ACTIVITY</b>	<b>ACTION DATE</b>
IFB Release	February 10, 2011
Written Question Submittal Deadline	February 17, 2011
Distribute Questions/Answers and Addenda (if any)	February 18, 2011
<b>Deadline to Submit Bid by 3:00 p.m.</b>	February 24, 2011
Public Bid Opening at 4:00 p.m.	February 24, 2011
Notice of Proposed Award	February 24, 2011
Commission Business Meeting	March 23, 2011
Contract Start Date	April 15, 2011
Contract Termination Date	March 31, 2013

### **AVAILABLE FUNDING**

There is \$300,000 available for the contract resulting from this IFB. This is an hourly rate plus cost reimbursement contract and the award will be made to the responsible Bidder providing the lowest cost.

The Commission reserves the right to reduce the contract amount to an amount deemed appropriate in the event the budgeted funds do not provide full funding of Commission contracts. In this event, the Contractor and Commission Contract Manager (CCM) shall meet and reach agreement on a reduced scope of work commensurate with the level of available funding.

### **QUESTIONS**

During the IFB process, questions of clarification about this IFB must be directed to the Contracts Officer listed in the following section.

Potential Bidders shall carefully examine the qualifications and specifications of this IFB and may submit written questions via mail, electronic mail, and by FAX.

Any verbal communication with a Commission employee concerning this IFB is not binding on the State and shall in no way alter a specification, term, or condition of the IFB.

### **CONTACT INFORMATION**

Rachel Grant, Contracts Officer  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, California 95814  
Telephone: (916) 654-4379  
FAX: (916) 654-4423  
E-mail: [rgrant@energy.state.ca.us](mailto:rgrant@energy.state.ca.us)

## I. INTRODUCTION, CONTINUED

### RESPONSES TO THIS IFB

Responses to this solicitation shall be in the form of an Administrative Response and a sealed and formal Cost Bid using **Attachment 7, Budget Forms**, according to the format described in this IFB. The Cost Bid shall detail the Bidder's budget to perform the hypothetical situation outlined in Attachment 7 and the rates to perform the tasks outlined in the Scope of Work.

### REFERENCE DOCUMENTS

Bidders must be familiar with the following reference documents:

1. Reference Guide for Energy Efficiency and Conservation Block Grant (EECBG) Program, California Energy Commission (Energy Commission), August 2, 2010.\*
2. Reference Guide for Energy Conservation Assistance Account (ECAA) Loans, Energy Commission, October 12, 2010, available at
3. Obtaining Prevailing Wage Rate Approvals, posted August 25, 2010, available at
4. A Desk Guide to the Davis-Bacon Act: Prevailing Wage Requirements for Contractors on Federal Contracts and DBA-Covered Federally Financed or Assisted Construction Projects, United States Department of Energy (DOE), June 16, 2010, available at
5. Answers to Questions Submitted During the June 10, 2010 Davis-Bacon Act Webinar, DOE, available at
6. DOE Website Providing Links to Guidance and Other Technical Resources concerning DBA Compliance in the Context of the State Energy Program (SEP) and Energy Efficiency and Conservation Block Grant (EECBG) Program, available at
7. Terms and Conditions of DOE Grant Award to Energy Commission for the EECBG Program, Award Number DE-EE0000905, as amended on March 22, 2010.\*
8. Terms and Conditions of DOE Grant Award to Energy Commission for the SEP, Award Number DE-EE0000221, as amended on September 14, 2010.\*
9. Standard Terms and Conditions for grant agreements under California's EECBG Program.\*
10. Standard Terms and Conditions for loan agreements under ECAA Loan Program, available at
11. Sample Standard Terms and Conditions for Energy Commission ARRA funded contract.\*
12. EECBG Program Guidelines, publication # CEC-150-2009-002-CMF-REV3, as amended, October 28, 2010.\*
13. SEP Program Guidelines, Fourth Edition, publication # CEC-150-2009-004-CMF-REV3, as amended, September 29, 2010, available at

\* These reference documents are available in the solicitation files for IFB # 200-10-203 at the following website:

<http://www.energy.ca.gov/contracts/index.html>.

## II. Scope of Work and Deliverables

### ABOUT THIS SECTION

This section describes the contract scope of work, deliverables and due dates under the direction of the Commission Contract Manager (CCM).

#### TASK 1: KICKOFF MEETING

***(Percentage of Anticipated Work: 1%)***

The goal of this task is to establish the lines of communication and procedures for implementing this Contract.

**The Contractor shall:**

- ☐ Attend a “kick-off” meeting with the Energy Commission Contract Manager, Contracts Officer, and the Accounting Office. The Contractor shall include at a minimum their Project Manager, Contract Administrator, and Accounting Officer. The administrative and technical aspects of this contract will be discussed, including the requirement that a personnel work plan be created by the contractor that describes anticipated staffing for the completion of future tasks. The Commission Contract manager will designate the date and location of this meeting.

**Deliverables:**

Draft Personnel Work Plan

#### TASK 2: PREVAILING WAGE TECHNICAL ASSISTANCE

***(Percentage of Anticipated Work: 10%)***

The goal of this task is to provide technical assistance on California and federal prevailing wage requirements to Energy Commission staff and/or ARRA funding recipients.

As directed by the CCM, Contractor shall provide prevailing wage technical assistance to Energy Commission staff and the recipients of its ARRA funded programs that includes, but is not limited to, the following topics:

1. Identification of correct United States Department of Labor (DOL) and California Department of Industrial Relations (DIR) prevailing wage rates;
2. Certified payroll reports;
3. Compliance issues;
4. Trainee and apprentice requirements.
5. Labor compliance protocols

**If the Contractor assists CCM or other Energy Commission staff:**

- ☐ All requests for technical assistance for the Energy Commission shall be directed by CCM.

## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

### **If the Contractor assists a recipient:**

- ☐ All requests for technical assistance for recipients shall be directed by CCM. Contractor will not directly assist recipients without first receiving a written request for assistance from CCM. CCM will notify Contractor in writing with at least 2 business days notice. The notification will include the date, name of recipient, specific topics to cover and maximum number of hours to invoice for the recipient.
- ☐ CCM will direct Contractor whether to provide service to recipients via telephone, email or in-person meeting. If recipient travels to Contractor's location, no travel costs are necessary. However, if Contractor travels to recipient's location, this contract budget includes travel costs.
- ☐ Technical assistance provided to recipients will include the identification of correct DOL and/or DIR prevailing wage rates for lower-tier subcontracts for labor or mechanic work to complete the objectives of their funding agreement.
- ☐ For each occurrence where Contractor provides technical assistance to a recipient, upon completion, Contractor shall submit to CCM a summary of the assistance provided.
- ☐ Contractor will also include a statement in the Prevailing Wage Report completed for that subcontract pursuant to Task 3 below, indicating that assistance was provided to a recipient.

### **Deliverables:**

Summaries of technical assistance provided to recipients(due as completed and to be submitted with Monthly Invoices and Progress Reports)

### **TASK 3: INITIAL PREVAILING WAGE REVIEW**

#### ***(Percentage of Anticipated Work: 60%)***

The goal of this task is to assist the Energy Commission with conducting its initial prevailing wage review to ensure that correct prevailing wage rates are included in all lower-tier subcontracts for labor or mechanic work to complete the objectives of the Commission's grant, loan, and contract agreements.

All recipients of the Energy Commission's ARRA funded programs that enter into a lower-tier subcontract for labor or mechanic work to complete the objectives of their agreement (subcontract) must submit a copy of each subcontract and other pertinent information, including applicable DOL and/or DIR wage determinations, project description, and job duties for each identified job classification to the Energy Commission. The Energy Commission reviews the information and approves the recipient to start work under the subcontract at specified wage and benefit rates. The subcontract(s) and other prevailing wage information are collectively referred to in this solicitation as the Prevailing Wage Consultation Package. The Energy Commission will review the Prevailing Wage Consultation Package submitted by each recipient and, where prevailing wage rates apply, approve the recipient to begin work under the subcontracts at specified labor and benefit rates. No work under any subcontract can begin until the Energy Commission provides this written approval.



## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

The Contractor will assist the Energy Commission with its initial review and approval of prevailing wage rates for approximately 500 subcontracts by reviewing the Prevailing Wage Consultation Package submitted by each recipient to ensure that the correct prevailing wage rates are included in all subcontracts. The contractor will verify appropriate use of job classifications and prevailing wage rates with the recipient, labor organizations, DOL, and/or DIR, as necessary. The Contractor will also review each subcontract to ensure that the contract clauses required by DBA and DOE have been included.

At the conclusion of the Contractor's review of a recipient's Prevailing Wage Consultation Package the Contractor will submit a Prevailing Wage Report for each subcontract that includes, at a minimum, the following information:

- ☐ Identification of recipient, agreement number, and reviewed subcontract.
- ☐ Documentation of the steps taken to verify that all necessary job classifications are included in the subcontract and to verify that correct prevailing wage rates are included for each identified job classification, e.g., the outcome of any communications with the recipient, labor organizations, DOL, and/or DIR should be briefly summarized.
- ☐ Statement indicating whether the Contractor provided the funding recipient assistance in identifying the applicable DOL and/or DIR prevailing wage rates for their project pursuant to Task 3 above.
- ☐ Recommendation of verified job classifications and labor and benefit rates for inclusion in the subcontract.
- ☐ Statement indicating whether the required DBA contract clauses are included in the subcontract.

### **Deliverables:**

Prevailing Wage Report for Each Reviewed Subcontract, due 7 business days after Contractor's receipt of the relevant information from CCM (unless otherwise directed by CCM)

### **TASK 4: REVIEW OF CERTIFIED PAYROLL REPORTS**

#### ***(Percentage of Anticipated Work: 20%)***

The goal of this task is to review weekly certified payroll reports submitted by approximately 500 lower-tier subcontractors performing labor or mechanic work under the Commission's ARRA funded grant, loan, and contract agreements.

The Contractor shall review the first three weekly certified payroll reports submitted by each subcontractor for compliance with federal prevailing wage requirements, and, where applicable, California prevailing wage rates. The Contractor's review of weekly certified payroll reports will include, but is not limited to, the following elements:

- ☐ Confirmation that weekly certified payroll reports do not include job classifications or labor or benefit rates that have not been previously approved for use in the applicable subcontract by the Energy Commission in writing.
- ☐ Confirmation that all deductions for bona fide fringe benefits satisfy the applicable criteria under the DBA.
- ☐ Confirmation that employee payments and deductions have been properly computed.

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

At the CCM's direction, the Contractor shall work with the recipient to resolve any identified discrepancies.

Each week, at the conclusion of the Contractor's review of the submitted weekly Certified Payroll Report for each subcontract, the Contractor will submit a Summary Report that includes, at a minimum, the following information:

- ☐ Identification of recipient, agreement number, applicable subcontract, and weekly period covered by reviewed certified payroll report.
- ☐ Identification of additional documentation reviewed, e.g., documents supporting payroll deductions.
- ☐ Identification of any payment discrepancies, e.g., failure to provide overtime compensation where required, and/or simple reporting errors, e.g., calculation errors or omission of data elements.
- ☐ Brief summary of the outcome of any action taken by the Contractor to resolve payment discrepancies and/or correct reporting errors.
- ☐ Statement indicating whether the reviewed Certified Payroll Report demonstrates that the subcontractor is in compliance with DBA prevailing requirements for the applicable weekly period. All instances of noncompliance with DBA prevailing wage requirements must be identified in the Summary Report.

The Contractor shall submit each Summary Report electronically to the CCM as well as in hard copy with the appropriate invoice.

The Energy Commission expects that the review of weekly certified payrolls will be conducted by clerical, non-technical, low-level personnel.

### **Deliverables:**

Summary Report for Each Reviewed Weekly Certified Payroll Report

## **TASK 5: MONTHLY PROGRESS REPORTS**

### ***(Percentage of Anticipated Work: 5%)***

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of the contract.

The Contractor shall prepare monthly written progress reports that summarize all contract activities conducted by the Contractor for the reporting period, including an assessment of the ability to complete the contract within the current budget and any anticipated cost overruns.

Each progress report is due to the CCM within 15 calendar days after the end of the reporting period. CCM will provide the reporting format.

### **Deliverables:**

Monthly Progress Reports

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

### **TASK 6: FINAL REPORT**

#### ***(Percentage of Anticipated Work: 4%)***

The goal of this task is to prepare a comprehensive written Final Report that describes the original purpose, approach, results and conclusions of the work done under this contract. The CCM will review and approve the Final Report. The Final Report must be completed on or before the termination date of the contract.

The Final Report shall be a public document.

#### **Deliverables:**

Final Report

### **III. Evaluation Process and Criteria**

#### **ABOUT THIS SECTION**

This section explains how the Bids will be evaluated. It describes the evaluation stages, preference points, and opening of all Bids.

#### **BID EVALUATION**

The Contract will be awarded to the Bidder who meets the minimum qualifications and has the lowest responsible Cost Bid after the preferences (if applicable) are applied.

The Bids will be analyzed in two stages:

##### **Stage One: Administrative and Completeness Screening**

Each Bid will be checked for the presence or absence of required information in conformance with Bid Format and Required Documents (see section IV). The Energy Commission will evaluate each Bid to determine its responsiveness to these requirements.

##### **Stage Two: Cost Bid**

Those Bids that are responsive to the criteria in Stage One will have their Cost Bid opened. All preferences will be applied, if applicable. The contract will be awarded to the responsible Bidder meeting the requirements outlined in Stage One, who provides the lowest cost, after application of preferences.

#### **NOTICE OF PROPOSED AWARD**

Subsequent to the Bid evaluations, the Energy Commission will post a Notice of Proposed Award (NOPA) at the Commission's headquarters in Sacramento, on the Commission's Web Site, and will mail the NOPA to all parties that submitted a Bid.

#### **PREFERENCE POINTS**

A Bidder may qualify for preference points such as Small/Micro Small Business, Non-Small Business, and Disabled Veteran Business Enterprises (DVBE) Incentive. Each qualifying Bidder passing Stage One screening will receive the applicable preference points.

##### **Small / Microbusiness**

Bidders who qualify as a State of California certified small/microbusiness will receive a cost preference of five percent (5%) of the lowest cost or price offered by the lowest responsible Bidder who is not a certified small/microbusiness, by deducting this five percent from the small/microbusiness Bidder's cost, for the purpose of comparing costs for all Bidders. See Attachment 5.1 for more detailed information.

##### **Non-Small Business**

The preference to a non-small business Bidder that commits to small business or microbusiness subcontractor participation of twenty-five percent (25%) of its net bid price shall be five percent (5%) of the lowest, responsible Bidder's price. A non-small business which qualifies for this preference may not take an award away from a certified small business.

##### **Disabled Veteran Business Enterprise Incentive Program**

The DVBE Incentive program was established pursuant to Military & Veterans Code Section 999.5(2) and Department of General Services' Regulations 2 CCR 1896.98 et.seq. The information in [Attachment 5.1](#) explains how the incentive is applied and how much of an incentive will be given.

## IV. Bid Format, Required Documents, and Delivery

### ABOUT THIS SECTION

This section contains the format requirements and instructions on how to submit a Bid in response to this IFB. The format is prescribed to assist the Bidder in meeting State bidding requirements. Bidders must follow all Bid format instructions, answer all questions, and supply all requested data.

### MINIMUM QUALIFICATIONS

By signing the Bidder Certification, **Attachment 2**, Bidder will certify all of the qualifications below.

1. At least five years experience implementing comprehensive third-party labor compliance programs for public entities and/or contractors in full adherence with California prevailing wage requirements and Davis-Bacon Act and other federal prevailing wage requirements (collectively referred to below as “federal prevailing wage requirements”).
2. At least five years experience conducting training on California and federal prevailing wage requirements for public entities and/or contractors.
3. At least five years experience reviewing contracts for compliance with California and federal prevailing wage requirements.
4. At least five years experience reviewing weekly certified payroll reports for compliance with California and federal prevailing wage requirements.
5. Approval by the California Department of Industrial Relations (DIR) as a Third Party Program offering Labor Compliance services. Include DIR labor compliance ID number and date approved.
6. Familiarity with Prevailing Wage Reference Documents, available in the solicitation files for IFB # 200-10-203 at the following website:

<http://www.energy.ca.gov/contracts/index.html>

### REQUIRED FORMAT FOR A BID

The documents in the Administrative Response (Volume 1, see below) and the Cost Bid (Volume 2, see below) constitute your Bid. The Cost Bid must be submitted in a separately sealed and labeled envelope.

### NUMBER OF COPIES

Bidders must submit the original and **two** copies of Volume 1 and Volume 2.

Bidders must also submit electronic files of the Bid on **CD-ROM diskette** along with the paper submittal. Electronic files must be in Microsoft Word XP (.doc format) and Excel Office Suite formats. Electronic files submitted via e-mail will not be accepted. Attachments provided in PDF may be submitted electronically in PDF. Signatures are not required on electronic documents.

## **IV. BID FORMAT, REQUIRED DOCUMENTS, AND DELIVERY CONTINUED**

### **PACKAGING AND LABELING**

The original and copies of each volume must be labeled "Invitation for Bids 200-10-203" and include the title of the Bid and the appropriate volume number:

Volume 1 – Administrative Response

Volume 2 – Cost Bid Forms

Include the following label information and deliver your Bid, in a sealed package:

Person's Name, Phone #	
Bidder's Name	
Street Address	
City, State, Zip Code	
FAX #	
	IFB 200-10-203
	Contracts Office, MS-18
	California Energy Commission
	1516 Ninth Street, 1st Floor
	Sacramento, California 95814

### **PREFERRED METHOD FOR DELIVERY**

A Bidder may deliver a Bid by:

- ☐ U. S. Mail
- ☐ Personally
- ☐ Courier service

Bids must be delivered no later than 3:00 p.m., to the Energy Commission Contracts Office during normal business hours and prior to the deadline specified in this IFB (Section I). In accordance with Public Contract Code 10341, Bids received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail and facsimile (FAX) transmissions are not acceptable in whole or in part, under any circumstances.

### **ORGANIZE YOUR BID AS FOLLOWS:**

#### **VOLUME 1, Administrative Response**

Bidder Checklist	Attachment 1
Bidder Certification	Attachment 2
Contractor Status Form	Attachment 3
Darfur Contracting Act Form	Attachment 4
Small Business Certification	If applicable
Completed Disabled Veteran Business Enterprise form	Attachment 5.3
Bidder Declaration form GSPD-05-105	Attachment 5.4
Contractor Certification Clauses	Attachment 6

#### IV. BID FORMAT, REQUIRED DOCUMENTS, AND DELIVERY CONTINUED

##### VOLUME 2, Cost Bid (Sealed Separately from Volume 1)

###### Budget Forms

Task Summary	Attachment 7, Attachment B-1
Category Summary	Attachment 7, Attachment B-2
Prime Hourly Rates	Attachment 7, Attachment B-3
Hourly Rates for each Subcontractor	Attachment 7, Attachment B-3a-z
Prime Indirect Rates	Attachment 7, Attachment B-4
Indirect Rates for each Subcontractor	Attachment 7, Attachment B-4a-z
Direct Operating Costs	Attachment 7, Attachment B-5
Loaded Rate Calculation	Attachment 7, Attachment B-6
Hypothetical Situation	Attachment 7, Attachment B-7

The Contractor must submit information on all the attached budget forms, B-1 through B-7, and will be deemed the equivalent of a formal Bid submission (B-2 shall not be required for this solicitation. This sheet will be completed by Energy Commission personnel prior to final approval of the contract. B-6 is also not required as it is for the Bidder's use only). Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the contractor for this IFB.

**NOTE:** The information provided in these forms will not be kept confidential.

The salaries, rates, and other costs entered on these forms become a part of the final contract. The entire term of the contract and projected rate increases must be considered when preparing the budget. The rates bid are considered capped and shall not change during the term of the contract. The Contractor shall only be reimbursed for their actual rates up to these rate caps. The Hourly Rates provided in all B-3s shall be unloaded (before fringe benefits, overheads, general & administrative (G&A) or profit).

The awards shall be made to the Bidder with the lowest dollar amount on Attachment 7, Attachment B-7 Hypothetical Situation. All other budget forms will be used for the contract prepared with the winning Bidder.

## **V. Administration**

### **IFB DEFINED**

The competitive method used for this procurement of services is an Invitation For Bids (IFB). A Bid submitted in response to this IFB will be opened and read publicly. The Energy Commission will contract with the Bidder who provides the lowest responsible Bid, and satisfies the minimum requirements.

### **DEFINITION OF KEY WORDS**

Important definitions for this IFB are presented below:

<b>Word/Term</b>	<b>Definition</b>
State	State of California
DGS	Department of General Services
Energy Commission	California Energy Commission
IFB	Invitation for Bid, this entire document
Bidder	Respondent to this IFB
CCM	Commission Contract Manager
DVBE	Disabled Veteran Business Enterprises
Bid	The Administrative Response and Cost Bid together

### **COST OF DEVELOPING BID**

The Bidder is responsible for the cost of developing a Bid, and this cost cannot be charged to the State.

### **PRINTING SERVICES**

Per Management Memo 07-06, State Agencies must procure printing services through the Office of State Publishing (OSP). Bidders shall not include printing services in their Bids.

### **CONFIDENTIAL INFORMATION**

The Commission will not accept or retain any Bids that are marked confidential in their entirety and Bidders are strongly discouraged from requesting confidential treatment for any of the information contained in a submittal.

### **DARFUR CONTRACTING ACT OF 2008**

Effective January 1, 2009, all solicitations must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272) The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.



## V. ADMINISTRATION CONTINUED

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency. (See # 1 on Attachment 4)

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on Attachment 4)

### DISABLED VETERAN BUSINESS ENTERPRISES (DVBE) COMPLIANCE REQUIREMENTS

The Disabled Veteran Business Enterprise (DVBE) Program has two inter-related aspects:

**Participation Goals:** This IFB is subject to a mandatory participation goal of three percent (3%) certified California Disabled Veteran Business Enterprise (DVBE) as set forth in Public Contract Code Section 10115 et seq.

And,

**Incentive:** The DVBE Incentive Program gives a contractor an opportunity to improve their bid status based on the efforts attained from the DVBE Participation Program.

More information regarding DVBE and Small Business is located in Attachments 5.1 through 5.4.

### IFB CANCELLATION AND AMENDMENTS

If it is in the State’s best interest, the Energy Commission reserves the right to do any of the following:

- ☐ Cancel this IFB;
- ☐ Amend this IFB as needed; or
- ☐ Reject any or all Bids received in response to this IFB

If the IFB is amended, the Energy Commission will send an addendum to all parties who requested the IFB and will also post it on the Energy Commission’s Web Site:

[www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts)

and Department of General Services’ Web Site:

[http://www.bidsync.com/DPX?ac=powersearch&srchoid\\_override=307818](http://www.bidsync.com/DPX?ac=powersearch&srchoid_override=307818).

### ERRORS

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the IFB, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice of all parties who requested the IFB, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

## **V. ADMINISTRATION CONTINUED**

### **MODIFYING OR WITHDRAWAL OF BID**

A Bidder may, by letter to the Contact Person at the Energy Commission, withdraw or modify a submitted Bid before the deadline to submit Bids. Bids cannot be changed after that date and time. A Bid cannot be "timed" to expire on a specific date. For example, a statement such as the following is non-responsive to the IFB: "This cost estimate is valid for 60 days."

### **IMMATERIAL DEFECT**

The Energy Commission may waive any immaterial defect or deviation contained in a Bid. The Energy Commission's waiver shall in no way modify the Bid or excuse the successful Bidder from full compliance.

### **DISPOSITION OF BIDDER'S DOCUMENTS**

On the Notice of Proposed Award posting date all Bids and related material submitted in response to this IFB become a part of the property of the State and public record. Bidders who want any work examples they submitted with their Bids returned to them shall make this request and provide either sufficient postage, or a Courier Charge Code to fund the cost of returning the examples.

### **BIDDERS' ADMONISHMENT**

This IFB contains the instructions governing the requirements for a firm quotation to be submitted by interested Bidders, the format in which the information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and Bidder responsibilities. Bidders must take the responsibility to carefully read the entire IFB, ask appropriate questions in a timely manner, submit all required responses in a complete manner by the required date and time, make sure that all procedures and requirements of the IFB are followed and appropriately addressed, and carefully reread the entire IFB before submitting a Bid.

### **GROUND TO REJECT A BID**

#### **A Bid shall be rejected if:**

- ☐ It is received after the exact time and date set for receipt of Bids pursuant to Public Contract Code, Section 10341.
- ☐ Bidder does not certify on Attachment 2 that they meet the minimum qualifications.
- ☐ It is considered non-responsive to the California Disabled Veteran Business Enterprise participation requirements.
- ☐ It is lacking a properly executed Certification Clauses.
- ☐ It is lacking a properly executed Darfur Contracting Act Form.
- ☐ It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- ☐ The Bid is intended to erroneously and fallaciously mislead the State in its evaluation of the Bid and the attribute, condition, or capability is a requirement of this IFB.

## **V. ADMINISTRATION CONTINUED**

- ☐ There is a conflict of interest as contained in Public Contract Code Sections 10410-10411 and/or 10365.5.
- ☐ It contains confidential information.

### **A Bid may be rejected if:**

- ☐ It is not prepared in the mandatory format described.
- ☐ The charges are computed incorrectly or it is unsigned.
- ☐ The firm or individual has submitted multiple Bids.
- ☐ It does not literally comply or contains caveats that conflict with the IFB and the variation or deviation is not material, or it is otherwise non-responsive.
- ☐ The budget forms are not filled out completely. Specifically, the budget must contain sufficient information to enable a useful evaluation to be conducted.

## **PROTEST PROCEDURES**

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Commission cancels the IFB, or the Department of General Services decides the matter.

Please note the following:

- ☐ Protests are limited to the grounds contained in the California Public Contract Code Section 10345.
- ☐ During the five working days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the Commission Contracts Office.
- ☐ Within five days after filing the protest, the protesting Bidder must file with the DGS and the Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- ☐ If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Commission for the DGS hearing officer consideration.

## **AGREEMENT REQUIREMENTS**

The content of this IFB shall be incorporated by reference into the final contract. See the sample Agreement terms and conditions included in this IFB.

### **No Contract Until Signed & Approved**

No agreement between the Commission and the successful Bidder is in effect until the contract is signed by the Contractor, approved at a Commission Business Meeting, and approved by the Department of General Services, if required.

### **Contract Amendment**

The contract executed as a result of this IFB will be able to be amended by mutual consent of the Commission and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.